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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,237	11/12/2003	Hal C. Danby	DB-5770DIV3 (BXTW 11001.5)	6395
7590	10/10/2006		EXAMINER TYLER, STEPHANIE E	
Francis C. Kowalik Baxter Healthcare Corporation 32E One Baxter Parkway Deerfield, IL 60015-4633			ART UNIT 3754	PAPER NUMBER
DATE MAILED: 10/10/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/706,237	DANBY ET AL.
	Examiner	Art Unit
	Stephanie E. Tyler	3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
 - 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: ____ | 6) <input type="checkbox"/> Other: ____ |

Detailed Action

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,3,4 are rejected under 35 U.S.C. 102(b) as being anticipated by Hart (4,396,383).

The Hart reference discloses a flexible bag (12) material, the bag being formed of flexible material and shaped for substantially enclosing a volume for containing the fluent material, the bag (12) comprising a body (36) and plural nipples (44,48), each nipple (44,48) being integral with the body (36), projecting outwardly from the body (36), and having an open outer end (fig. 1), the body (36) and nipples (44,48) being in fluid communication for movement of the fluent material from the body (36) to the nipples (44,48), and plugs (col., lines 29-31) including a plug for each of the nipples (44,48) for resealably closing the open ends of the nipples (44,48).

Regarding claim 3 note in figure 1 wherein the nipples (44,48) are formed of the flexible material as one piece with the body (36).

Regarding claim 4 note in figure 1 wherein a flexible bag (12) further includes a hanger (20) for hanging the bag (12), the hanger (20) consist of a flat region (22) of the

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bag (12) on a side of the bag (12) generally opposite the nipples (44,48), the flat region (22) having at least one opening (24) therein.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hart in view of Irmiter et al. (4,863,452).

The Hart reference discloses substantially all the structure and functionality of the invention. However the Hart reference lacks the nipples having different internal volumes and diameters.

The Irmiter et al. reference teaches a flexible bag having nipples with different internal volumes and diameters for the purpose of delivering different amounts of fluid from the flexible bag.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the Hart's device with nipples that have different internal volumes and diameters as taught by Irmiter et al. in order to deliver a certain volume of fluid from each nipple.

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5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hart in view of Hassler (2,891,703).

The Hart reference discloses substantially all the structure and functionality of the invention. However the Hart reference lacks the plugs being connected together by a stringer that defines the plug device.

The Hassler reference teaches a plug device (14) that has plugs (27) for the purpose of sealing the openings (20) of the container.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the Hart's device with a plug device as taught by Hassler in order to "seal off the perforations and thus prevent leakage of material" (col.3, lines 31,32).

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hart in view of Loeffler (6,092,695).

The Hart reference discloses substantially all the structure and functionality of the invention. However the Hart reference lacks a check valve at the outer end of nipple.

The Loeffler reference teaches a flexible bag (3) with a nipple having a check valve (17) at the outer end of the nipple for the purpose of allowing fluid to pass or restrict the fluid from exiting the fluid from the bag.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the Hart's device with a check at the outer

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end of each nipple as taught by Loeffler in order to restrict or allow fluid to pass from the bag and exit out of the nipple.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hart in view of van Overbruggen et al. (4,717,047).

The Hart reference discloses substantially all the structure and functionality of the invention. However the Hart reference lacks a flow control device.

The van Overbruggen et al. teaches a flow control device (6) that is adapted to the flexible bag (1) for the purpose of "squeezing a portion of the dispensing tube so as to force a quantity of concentrate through the dispensing end of the tube" (see abstract).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the Hart's device with a flow control device as taught by van Overbruggen et al. in order to expel contents from the flexible bag.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie E. Tyler whose telephone number is 571-272-8059. The examiner can normally be reached on 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SET



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